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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,925	11/23/2005	Karrie Hontz	A35349-PCT-USA (065855.03)	2968
21003	7590	05/27/2008	EXAMINER	
BAKER BOTTS L.L.P. 30 ROCKEFELLER PLAZA 44TH FLOOR NEW YORK, NY 10112-4498			LAFORGIA, CHRISTIAN A	
			ART UNIT	PAPER NUMBER
			2139	
			NOTIFICATION DATE	DELIVERY MODE
			05/27/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DLNYDOCKET@BAKERBOTTS.COM

<b>Office Action Summary</b>	<b>Application No.</b> 10/524,925	<b>Applicant(s)</b> HONTZ ET AL.	
	<b>Examiner</b> Christian LaForgia	<b>Art Unit</b> 2139	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7,9 and 11-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,9 and 11-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. The amendment of 25 February 2008 has been noted and made of record.
2. Claims 1-7, 9, and 11-21 have been presented for examination.
3. Claims 8 and 10 have been cancelled as per Applicant's request.

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-7, 9, and 11-21 have been considered but are moot in view of the new grounds of rejection set forth below.

### ***Claim Objections***

5. Claims 11-21 are objected to because the preamble of claim 11 recites:

A method for evaluating the performance of at least one of a plurality of pharmacy outlets in a pharmacy chain, there being several such pharmacy chains in the marketplace the system comprising the steps of... (Emphasis added)

The Examiner believes the addition of "the system" to be a typo and not a deliberate attempt to cover more than a single statutory subject matter in the claims of 11-21. The Applicant is required to cancel "the system" from the claim language or face subsequent rejections under 35 U.S.C. 101 and 35 U.S.C. 112. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-6 and 11-17 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication No. 2006/0074695 A1 to Houston et al., hereinafter Houston.

8. As per claim 1, Houston teaches a data analysis system for evaluating the performance of a first one of a plurality of pharmacy outlet(s) in a pharmacy chain, there being several such pharmacy chains in the marketplace, the system comprising:

a computer system coupled to a centralized database common to all the pharmacy chains in the marketplace (Figure 1 [blocks 106, 108], paragraphs 0008, 0030, 0032), wherein the database houses:

(1) confidential pharmaceutical information related to all the pharmacy chains, wherein the confidential information related to a particular pharmacy chain includes market measures of its plurality of pharmacy outlets (paragraph 0030), and

(2) reference files including industry-standard market measures (paragraphs 0032, 0034, i.e. market research data, market assessment data); and

a data access application providing user/outlet-access to the database from a second one of the plurality of pharmacy outlets, wherein the data access application is configured to provide user/outlet access to (a) reference files including industry-standard market measures, and (b) only to data associated with the second one of the plurality of pharmacy outlets' pharmacy chain while keeping the confidential information related to other pharmacy chains inaccessible (Figures 2, 3 [block 308], 4 [block 404], 5 [block 502], paragraphs 0050, 0054).

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9. Regarding claims 2 and 14, Houston teaches wherein at least one of the plurality of outlets is a retail sales location (paragraph 0005).
10. Regarding claims 3 and 15, Houston teaches wherein at least one of the plurality of outlets is a pharmaceutical sales location (paragraphs 0005, 0030).
11. Regarding claims 4 and 16, Houston teaches wherein the computer system receives market measures from the portion of the plurality of outlets through the transceiver (paragraphs 0008, 0030).
12. With regarding to claim 5, Houston teaches wherein the computer system receives the market measures from users utilizing the data access application (paragraphs 0008, 0030).
13. With regarding to claims 6 and 17, Houston teaches wherein the computer system generates industry-standard market measures based at least in part on the market measures from the portion of the plurality of outlets (paragraphs 0032, 0034, i.e. market research data, market assessment data).
14. As per claim 11, Houston teaches a method for evaluating the performance of at least one of a plurality of pharmacy outlets in a pharmacy chain, there being several such pharmacy chains in the marketplace, comprising the steps of:

(a) receiving a username and password from a user associated with a second pharmacy outlet (Figures 2 [block 204], 3 [block 304], paragraphs 0018, 0040, 0047),

(b) verifying that the username and password correspond to a user account, wherein the user account includes a reference to the pharmacy chain to which the second pharmacy outlet belongs (Figures 2 [block 206], 3 [block 306], paragraphs 0018, 0040, 0047, 0054);

(c) receiving a request for a report comparing data associated with at least one outlet associated with the pharmacy chain to industry-standard market measures (Figures 4, 5, 6 [blocks 602, 604, 606, 608, 610], paragraphs 0058-0063); and

(d) if the first and second pharmacy outlets belong to a common pharmacy chain, access a database that houses:

confidential pharmaceutical information related to all the pharmacy chains,  
wherein the confidential information related to a particular pharmacy chain  
includes market measures of its plurality of pharmacy outlets (paragraph 0030),  
and  
reference files including industry-standard market measures (paragraphs 0032,  
0034, i.e. market research data, market assessment data);

(e) transmitting the report to the user (Figures 2 [block 216], 6 [block 614], paragraph 0045, 0063).

15. Regarding claim 12, Houston teaches receiving market measures corresponding to one of the at least one outlet associated with the pharmacy chain (Figures 2 [block 216], 6 [block 614], paragraphs 0030, 0045, 0063).

16. With regards to claim 13, Houston teaches wherein the market measures include all pertinent transactions from the one of the at least one outlet (paragraph 0030).

***Claim Rejections - 35 USC § 103***

17. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

18. Claims 7, 9, and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Houston.

19. Regarding claims 7, 18, and 19, Houston does not teach an additional data storage unit coupled to the computer system and including a plurality of data records, wherein each of the data records includes an outlet name, an organization name, and a parent name.

20. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include an additional storage unit, comprising user information containing an outlet name, an organization name, and a parent name, since one of ordinary skill in the art would realize that maintaining information regarding the users outlets, organization, and parent would prevent the user from accessing unauthorized information and help in formulating market research comparing their company to their competitors.

21. With regards to claims 9 and 21, Houston does not teach wherein the user group is associated with at least one of the plurality of outlets associated with a particular organization name.

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22. It would have been obvious to one of ordinary skill in the art at the time the invention was made for a user group to be associated with an organizational name, since one of ordinary skill in the art would realize that maintaining information regarding the users outlets, organization, and parent would prevent the user from accessing unauthorized information and help in formulating market research comparing their company to their competitors.

23. With regards to claim 20, Houston does not teach wherein the user group is associated with at least one of the plurality of outlets associated with a particular parent name.

24. It would have been obvious to one of ordinary skill in the art at the time the invention was made for a user group to be associated with a parent name, since one of ordinary skill in the art would realize that maintaining information regarding the users outlets, organization, and parent would prevent the user from accessing unauthorized information and help in formulating market research comparing their company to their competitors.

### ***Conclusion***

25. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

26. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,



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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christian LaForgia whose telephone number is (571)272-3792.

The examiner can normally be reached on Monday thru Thursday 7-5.

28. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine L. Kincaid can be reached on (571) 272-4063. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

29. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christian LaForgia/  
Primary Examiner, Art Unit 2139

clf